

United Nations Dispute Tribunal

Rules of Procedure

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Article 1 Election of President

1. The Tribunal shall elect a President from among the full-time Judges, for a renewable term of one year to direct the work of the Tribunal and of the Registries, in accordance with the Statute.
2. Until otherwise decided by the Tribunal:
 - (a) The election shall occur at a plenary meeting every year and the President shall take up his or her duties upon election;
 - (b) The retiring President shall remain in office until his or her successor is elected;
 - (c) If the President should cease to be a Judge of the Dispute Tribunal, should resign his or her office before the expiration of the normal term, or is unable to act, an election shall be held for the purpose of appointing a successor for the unexpired portion of the term;
 - (d) Elections shall be by majority vote. Any Judge who cannot attend for the purpose, is entitled to vote by correspondence.

Article 2 Plenary meeting

1. The Tribunal shall normally hold a plenary meeting once a year to deal with questions affecting the administration or operation of the Dispute Tribunal.
2. Three Judges shall constitute a quorum for plenary meetings of the Dispute Tribunal.

Article 3 Commencement of office

Unless otherwise decided by the General Assembly, the term of office of the Judges of the Dispute Tribunal shall commence on the first day of July following their appointment by the General Assembly.

Article 4 Venue

The Judges of the Dispute Tribunal shall exercise their functions in New York, Geneva and Nairobi, respectively. However, the Dispute Tribunal may decide to hold sessions at other duty stations, as required.

Article 5 Consideration by a Panel

1. Except in cases falling under article 5.2 below, cases shall be considered by a single Judge.
2. As provided for in the Statute, the Dispute Tribunal may refer any case to a panel of three Judges for a decision.
3. If a case is examined by a Panel of three Judges, the decision shall be taken by majority vote. A concurring, separate or dissenting opinion, if any, shall be recorded in the judgment.

Article 6 Filing of cases

1. An application shall be filed at a Registry of the UNDT, taking into account geographical proximity and any other relevant material considerations.
2. The Tribunal shall assign cases to the appropriate Registry. A party may apply for a change of venue.

Article 7 Time limits for filing applications

1. An application shall be submitted to the Tribunal through the Registrar within:
 - (a) 90 calendar days after the Applicant received the management evaluation, as appropriate; or,
 - (b) 90 calendar days after the expiry of the relevant response period for the management evaluation, i.e., 30 calendar days for disputes arising at Headquarters and 45 calendar days for other offices; or,
 - (c) 90 calendar days after the applicant's receipt of the administrative decision in cases where a management evaluation of the contested decision is not required.
2. Any person making claims on behalf of an incapacitated or deceased staff member of the United Nations, including of the United Nations Secretariat or separately administered United Nations funds and programmes shall have one calendar year to submit an application.
3. Where the parties have sought mediation of their dispute, the application shall be receivable if filed within 90 calendar days after mediation has broken down.
4. Where an application is filed to enforce the implementation of an agreement reached through mediation, the application shall be receivable if filed within 90 calendar days after the last day for the implementation as specified in the mediation agreement or,

when the mediation agreement is silent on the matter, after 30 calendar days from the date of the signing of the agreement.

5. In exceptional cases, an Applicant may submit a written request to the Dispute Tribunal seeking suspension, waiver or extension of the time limits referred to in Article 7.1, above. Such written request shall succinctly set out the exceptional reasons that, in the view of Applicant, justify the request. Such written request shall not exceed two pages in length.

6. In accordance with Article 8.4 of the Statute of the Dispute Tribunal, no application shall be receivable if filed more than three years after the Applicant's receipt of the contested administrative decision.

Article 8 Applications

1. An application may be submitted on an application form to be prescribed by the Registrar.

2. The application should include the following information:

- (a) Applicant's full name, date of birth and nationality,
- (b) Applicant's employment status (including UN index number and Department, Office, Section) or relationship to the staff member if relying on his or her rights,
- (c) Name of the Applicant's legal representative (attach authorization),
- (d) Address for service of documents,
- (e) Date and place of the contested decision (attach contested decision if any),
- (f) Action and remedies sought,
- (g) Any supporting documentation (annexed and numbered, including mention of translated documents).

3. The Application Form and all Annexes shall be submitted in one signed original together with annexed documents, which may be electronically transmitted.

4. After ascertaining that the requirements of this Article are complied with, the Registrar shall transmit a copy of the application to the Respondent and to any other party a judge considers appropriate. If the formal requirements of the Article are not fulfilled, the Registrar may require the Applicant to comply with the requirements of this Article within a specified time-limit. Once the corrections have been properly made, the Registrar shall transmit a copy of the application to the Respondent.

Article 9 Summary judgment

A party may move for summary judgment when there is no dispute as to the material facts of the case and a party is entitled to judgment as a matter of law. The Tribunal may determine, on its own initiative, that summary judgment is appropriate.

Article 10 Reply

1. The Respondent's Reply shall be submitted within thirty calendar days from the date of receipt of the application by the Respondent in one signed original together with annexed documents, which may be electronically transmitted. The Respondent who has not submitted a reply within the requisite period shall not be entitled to take part in the proceedings except with the leave of the Tribunal.

2. After ascertaining that the requirements of this Article are complied with, the Registrar shall transmit a copy of the response to the Applicant and to any other party a judge considers appropriate. If the formal requirements of the Article are not fulfilled, the Registrar may require the Respondent to comply with the requirements of this Article within a specified time-limit. Once the corrections have been properly made, the Registrar shall transmit a copy of the Reply to the Applicant.

Article 11 Joining of a party

The Tribunal may, at any time, either on the application of a party or of its own initiative join another party if it appears to the Tribunal that that party has a legitimate interest in the outcome of the proceedings.

Article 12 Representation

1. A party may present his or her case before the Dispute Tribunal in person, or may designate counsel from the Office of Staff Legal Assistance, or counsel authorized to practice law in a national jurisdiction.

2. A party may also be represented by a staff member or a former staff member of the United Nations or one of the specialized agencies.

Article 13 Suspension of action during a management evaluation

1. The Dispute Tribunal shall make an order on an application filed by an individual requesting the Dispute Tribunal to suspend, during the pendency of the management evaluation, the implementation of a contested administrative decision that is the subject of an ongoing management evaluation, where the decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage.

2. The Registrar shall transmit the application to the Respondent.

3. The Tribunal shall consider an application for interim measures within five working days of the service on the Respondent of the application.

4. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

Article 14 Suspension of action during the proceedings

1. At any time during the proceedings, the Dispute Tribunal may order an interim measures to provide temporary relief, where the contested administrative decision appears prima facie to be unlawful, in cases of particular urgency, and where its implementation would cause irreparable damage. This temporary relief may include an order to suspend the implementation of the contested administrative decision, except in cases of appointment, promotion or termination.

2. The Registrar shall transmit the application to the Respondent.

3. The Tribunal shall consider an application for interim measures within five working days of the service on the Respondent of the application.

4. The decision of the Dispute Tribunal on such an application shall not be subject to appeal.

Article 15 Referral to mediation

1. At any time during the proceedings, including at the hearing, the Tribunal may propose to the parties to refer the case for mediation and suspend the proceedings.

2. Where the judge proposes, and the parties consent to mediation, the Tribunal shall send the case to the Mediation Division in the Ombudsman's Office for consideration.

3. Where parties on their own initiative decide to seek mediation, they shall promptly inform the Registry in writing.

4. Upon referral of a case to the Mediation Division, the concerned Registry shall forward the case file to the Mediation Division. The proceedings will be suspended during mediation.

5. The time limit for mediation normally shall not exceed three months. However, where, after consultation with the parties, the Mediation Division considers it appropriate, it will notify the Registry that the informal efforts will require additional time.

6. It shall be the responsibility of the Mediation Division to apprise the Tribunal of the outcome of the mediation in a timely manner.

7. All documents prepared for - and oral statements made during - any informal conflict resolution process or mediation are absolutely privileged and confidential and shall never be disclosed to the Dispute Tribunal. No mention shall be made of any such

mediation efforts in documents or written pleadings submitted to the Tribunal or in any oral arguments made before the Dispute Tribunal.

Article 16 Hearing

1. The Judge hearing a case may hold oral hearings.
2. A hearing shall normally be held following an appeal against an administrative decision imposing a disciplinary measure.
3. The Registrar shall notify the date and time of a hearing to the parties in advance, and confirm the names of witnesses or expert witnesses for the hearing of a particular case.
4. The parties or their duly designated representatives must be present at the hearing either in person or, where unavailable, by video-link, telephone or any other electronic means.
5. If the Tribunal requires the physical presence of a party or any other person at the hearing, the necessary costs associated with the travel and accommodation of the party shall be borne by the Organization.
6. The oral proceedings shall be held in public unless the Judge hearing the case decides, at his or her own initiative or at the request of one of the parties, that exceptional circumstances require that the oral proceedings be closed. If appropriate, in the circumstances, the oral hearing may be held by video-link, telephone or any other electronic means.

Article 17 Oral evidence

1. The parties may call witnesses and experts to testify. The opposing party may cross-examine any witnesses and experts. The Tribunal may examine any witnesses or experts called by either party and may call any other witnesses or experts it deems necessary. The Tribunal may make an order requiring the presence of any person and to produce any document.
2. The Tribunal may, if it considers it appropriate in the interest of justice to do so, proceed to determine a case in the absence of a party.
3. Each witness shall make the following declaration before giving his or her statement: "I solemnly declare upon my honor and conscience that I will speak the truth, the whole truth and nothing but the truth".
4. Each expert shall make the following declaration before giving his or her statement: "I solemnly declare upon my honor and conscience that my statement will be in accordance with my sincere belief".

5. Any party may object to the testimony of a given witness or expert, stating reasons for such objection. The Tribunal shall decide on the matter. Its decision shall be final.

6. The Tribunal shall decide whether the personal appearance of a witness or expert is required at oral proceedings and determine the appropriate means for satisfying the requirement of personal appearance. Evidence may be taken by video-link, telephone or any other electronic means.

Article 18 Evidence

1. The Tribunal shall determine the admissibility of any evidence.

2. The Tribunal may order production of evidence for either party at any time and may require any person to disclose any document or provide information, which appears to the Tribunal to be necessary for a fair and expeditious disposal of the proceedings.

3. A party wishing to submit evidence which is in the possession of the opposing party, or of any other entity may, in the initial application or at any stage of the proceedings, request the Tribunal to order the production of the evidence.

4. The Tribunal may, at the request of either party, impose measures to preserve the confidentiality of evidence, where warranted by security interests or other exceptional circumstances.

5. The Tribunal may exclude evidence which it considers irrelevant, frivolous, or lacking in probative value. The Tribunal may also limit the oral testimony as it deems appropriate.

Article 19 Case management

The Tribunal may, at any time, either on an application of a party or of its own initiative make any order or give any direction which appears to the judge to be appropriate for a fair and expeditious disposal of the case and to do justice to the parties.

Article 20 Remand of case for institution or correction

Prior to a determination of the merits of a case, should the Tribunal find that a relevant procedure prescribed in the Staff Regulations and Articles or applicable administrative issuances has not been observed, the Tribunal may, with the concurrence of the Secretary-General, remand the case for institution or correction of the required procedure, which, in any case, should not exceed three months. In such cases, the Tribunal may order the payment of compensation for procedural delay to the Applicant for such loss as may have been caused by such procedural delay, which is not to exceed the equivalent of three months' net base salary.

Article 21 Registry

1. The Tribunal shall be supported by Registries which shall provide all necessary administrative and support services to it.
2. The Registries shall be established in New York, Geneva and Nairobi and shall be headed by a Registrar appointed by the Secretary-General and such staff as necessary.
3. The Registrar shall discharge the duties set out in these Rules of Procedure and shall support the work of the Dispute Tribunal at the direction of the President or the Judge at each location. In particular, the Registrar shall:
 - (a) Transmit all documents and make all notifications required in these Rules of Procedure, or by the President, in connection with proceedings before the Tribunal;
 - (b) Establish for each case a master Registry file which shall record all actions taken in connection with the preparation of the case for hearing, the dates thereof, and the dates on which any document or notification forming part of the procedure is received in or dispatched from his or her office; and
 - (c) Perform any other duties that are required by the President or the Judge for the efficient functioning of the Tribunal.
4. The Registrar, if unable to act, shall be replaced by an official appointed by the Secretary-General.

Article 22 Intervention by persons not party to the case

1. Any person to whom the Tribunal is open under article 2.4 of the Statute may apply to intervene on an application form to be prescribed by the Registrar, in a case at any stage thereof, on the ground that he or she has a right which may be affected by the Judgment to be issued by the Tribunal.
2. After ascertaining that the requirements of the present article are complied with, the Registrar shall transmit a copy of the Application for intervention to the Applicant and to the Respondent.
3. The Tribunal shall decide on the admissibility of the Application to Intervene. Such decision shall be final and shall be communicated to the Intervener and the parties by the Registrar.
4. The Tribunal shall set the modalities of the intervention. If admissible, the Tribunal shall decide which documents, if any, relating to the proceedings are to be transmitted to the Intervener by the Registrar and shall fix a time by which any written

submissions must be submitted by that Intervener. It shall also decide whether the Intervener shall be permitted to participate in any oral proceedings.

Article 23 Intervention procedure

An Application to intervene and any subsequent intervention shall be submitted on a form to be prescribed by the Registrar, in one signed original, which may be electronically transmitted.

Article 24 Application to file friend-of-court brief

1. A staff association may submit a signed Application to file a “friend-of-court” brief on the form to be prescribed by the Registrar, which may be transmitted electronically. The Registrar shall forward a copy of the Application to the parties who shall have three days to file any objections on a form.

2. The President or the Judge hearing the case may grant the Application if it considers that the filing of the brief would assist the Dispute Tribunal in its deliberations. The decision will be communicated to the Applicant and the parties by the Registrar.

Article 25 Judgments

1. Judgments shall be issued in writing, normally in either working language of the United Nations, and shall state the reasons, fact and law on which they are based.

2. When a case is decided by a Panel of three Judges, a Judge may append a separate, dissenting or concurring opinion.

3. Judgments shall be drawn up in any of the official languages of the United Nations in two originals, and shall be deposited in the archives of the United Nations.

4. The Registrars shall transmit a copy of the Judgment to each party. An individual Applicant or Respondent shall receive a copy of the Judgment in the language in which it was submitted, unless he or she requests a copy in another official language of the United Nations.

5. The Registrars shall send to all Judges of the Dispute Tribunal copies of all the decisions of the Tribunal.

Article 26 Publication of Judgments

1. The Registrars shall arrange for publication of the Judgments of the Dispute Tribunal on the web site of the Tribunal after they are delivered.

2. The Judgments of the Tribunal shall protect personal data and are available at the Registry of the Tribunal.

Article 27 Conflict of interest

1. The term “conflict of interest” means any factor which may impair or reasonably give the appearance of impairing the ability of a Judge to independently and impartially adjudicate a case assigned to that Judge.
2. A conflict of interest arises where a case assigned to a Judge involves any of the following:
 - (a) A person with whom the Judge has a personal, familiar or professional relationship;
 - (b) A matter in which the Judge has previously served in another capacity, including adviser, counsel, expert or witness; or
 - (c) Any other circumstances which would make it appear to a reasonable and impartial observer that the Judge’s participation in adjudication of the matter would be inappropriate.

Article 28 Recusal

1. A Judge of the Dispute Tribunal who has, or appears to have, a conflict of interest as defined in Article 27 of these Rules shall recuse from the case and inform the President.
2. A party may make a reasoned request for the recusal of a Judge, on the grounds of a conflict of interest, to the President of the Dispute Tribunal who, after seeking comments from the Judge, shall decide on the request and shall inform the party of the decision in writing. A request for recusal of the President shall be referred to a three-Judge panel for decision.
3. The Registrar shall communicate the decision to the parties concerned.

Article 29 Revision of Judgments

1. Either party may apply to the Dispute Tribunal for a revision of a judgment on the basis of the discovery of a decisive fact which was, at the time the judgment was rendered, unknown to the Tribunal and to the party applying for revision, always provided that such ignorance was not due to negligence.
2. The Application for revision must be made within 30 calendar days of the discovery of the fact and within one year of the date of the Judgment.
3. The Application for revision will be sent to the other party who has 30 days after receipt to submit comments to the Registrar.

Article 30 Interpretation of Judgments

Either party may apply to the Dispute Tribunal for an interpretation of the meaning or scope of a Judgment provided it is not under consideration by the Appeals Tribunal. The Application for Interpretation shall be sent to the other party who shall have 30 days to submit comments on the Application. The Tribunal will decide whether to admit the Application for Interpretation and, if so, shall issue its Interpretation.

Article 31 Correction of Judgments

Clerical or arithmetical mistakes, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Dispute Tribunal, either at its own volition or on the application of any of the parties on a form.

Article 32 Execution of Judgments

1. The Judgment of the Dispute Tribunal shall be binding upon the parties, but is subject to appeal in accordance with the Statute of the Appeals Tribunal. In the absence of such appeal, it shall be executable following the expiry of the time provided for appeal in the Statute of the Appeals Tribunal.

2. Once a Judgment is executable under article 11.3 of the Statute, either party may apply to the Dispute Tribunal for an order for execution of the Judgment if the Judgment requires execution within a certain period of time and such execution has not been carried out.

Article 33 Titles

The titles to the Articles in these Rules of Procedure are for reference purposes only and do not constitute an interpretation of the Article concerned.

Article 34 Calculation of time limits

The time limits prescribed in these Rules:

- (a) Refer to calendar days and shall not include the day of the event from which the period runs;
- (b) Shall include the next working day of the Registry when the last day of the period is not a working day; and
- (c) Shall be deemed to have been met if the documents in question were dispatched by reasonable means on the last day of the period.

Article 35 Waiver of time limits

Subject to article 8.3 of the Statute of the Dispute Tribunal, the President, or the Judge or Panel hearing a case, may shorten or extend a time limit fixed by these Rules or waive any rule when the interests of justice so require.

Article 36 Procedural matters not covered in Rules

1. All matters which are not expressly provided for in the present Rules shall be dealt with by decision of the Dispute Tribunal upon the particular case, by virtue of the powers conferred on it by Article 7 of the Statute.
2. The Dispute Tribunal may issue Practice Directions related to the implementation of these Rules.

Article 37 Amendment of Rules

1. The Dispute Tribunal in plenary meeting may adopt amendments to these Rules of Procedure which shall be submitted to the General Assembly for approval.
2. The amendments shall operate provisionally until approved by the General Assembly or until they are amended or withdrawn by the Dispute Tribunal in accordance with a decision of the General Assembly.
3. The President, after consultation with the Judges of the Dispute Tribunal, may instruct the Registrar to revise any Forms from time to time in the light of experience, provided such modifications are consistent with the Rules of Procedure.

Article 38 Entry into force

1. The Rules shall enter into force on the first day of the month following approval by the General Assembly.
2. The Rules shall operate provisionally from the date of their adoption by the Dispute Tribunal until their entry into force.

New York, 26 June 2009